

## REMARKS

### STATUS OF CLAIMS

Claims 1-21 are pending.

Claims 1-10 and 16-21 have been withdrawn from consideration.

Claims 11-15 have been rejected.

### SECTIONS 4 & 5 OF OFFICE ACTION

The Applicants note that the objections to the drawings appear to stem from typographical errors in the written description, *i.e.*, in the written description the "lock body nut" was referenced under both element nos. 138 and 318, and slot 302 was called an "engagement slot" and a "guide slot." The amendments to the specification set forth above correct these typographical errors and are believed to obviate the noted drawing objections.

### SECTION 6 OF OFFICE ACTION

The specification was objected to for failing to provide proper antecedent basis for the claimed "lock means." By way of the amendments set forth above, the term "lock means" has been replaced in the claims by "blocking means" (see below). As such, the written description has been amended to explicitly identify the "blocking means" (which the Applicants note are any of the various locking devices set forth in the written description).

### SECTIONS 7 & 8 OF OFFICE ACTION

Claims 11-13 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Pat. No. 5,465,519 to Blanck ("Blanck").

As the Examiner is aware, for a prior-art reference to anticipate an invention under 35 U.S.C. § 102(b), the reference must show each and every element and limitation of the invention as claimed. Here, the Applicants respectfully submit that the Blanck patent does not disclose each and every element and limitation of Claims 11-13, as amended, and therefore that these claims are allowable.

To elaborate, the Blanck patent, with reference to its FIGS. 1 and 2, relates to a lock assembly 7 for a rifle 1. The lock assembly 7 includes a cylindrical lock sleeve 10 positioned in an aperture 8 drilled through the firearm's stock 5, and a cylinder lock 11 that fits inside the sleeve. When actuated, with the firearm's bolt 6 in a slightly retracted, aligned position, a cam or plunger portion 23 of the cylinder lock 11 engages an aperture 27 drilled into the bolt 6, securing the firearm.

Like the device in Blanck, the present invention utilizes a locking device that interferes with the firearm's action; however, the similarities end there. For example, with reference to FIGS. 2-4 and 12 of the present application, the locking device 120, 220, 420 (a "low-profile" plunger lock that is much smaller and shorter than the lock in Blanck) can be located in a number of different positions with respect to the firearm's action, and not just in positions where the locking device's plunger (e.g., element 160 in FIG. 6A) mates or locks with an aperture provided in some portion of the firearm's action. As such, instead of locking the action, the locking device can be positioned to block the action, *i.e.*, to not engage the action, but to block its normal path of movement. The difference between these two modalities can be seen by comparing FIGS. 3 and 4 with FIG. 2 and, especially, FIG. 12.

Positioning a locking device where it blocks a portion of the action, rather than where it has to engage an aperture, obviates the need to provide the aperture. Thus, in retrofit situations, there is no need to drill a specially-aligned hole in the bolt, elevator, *etc.*, where the firearm might be damaged. Also, in "standard" manufacturing situations, there is no need to go to the trouble and expense of an additional manufacturing step, where the integrity of an important firearm component might be compromised because of the hole/aperture.

To emphasize this difference between Blanck and the present invention, Claims 11-15 have been amended to note that a "blocking means" or "blocking device" is being employed, and that the blocking device/means is configured to block the path of travel of the action (or some portion thereof). In Blanck, the cylinder lock engages or locks with the firearm's bolt; Blanck does not disclose, teach, or otherwise suggest a blocking mechanism that blocks the action's path of travel or movement. Accordingly, because Blanck does not show a "blocking means" or "blocking device" configured to block the action's path of travel, as claimed in Claims 11-13, these claims are believed not anticipated by Blanck and therefore allowable.

Another difference between Blanck and the present invention is that the cylinder lock in Blanck is relatively large, and requires a stock for proper mounting. This configuration is emphasized in Blanck, where it is repeatedly stated that the cylinder lock is adapted for use with a stock (see, *e.g.*, Column 3, lines 40-57; see also Abstract, lines 4-8). In addition, because the cylinder lock has to be positioned in the stock, the stock has to be positioned below (or otherwise contiguous with) the firearm's receiver 3. This limits the use of the Blanck device to firearms that have: (i) a stock; and (ii) a stock positioned below the receiver. Many firearms (*e.g.*, pump shotguns) are not configured in such a manner. *not claimed*

Contrariwise, according to the present invention, the blocking/locking device is low in profile and is much smaller than the cylinder lock in Blanck. This allows the locking device to be attached directly to the receiver, and without the need for a stock or any particular positioning of the lock. In Claims 11 and 13, this difference is noted by way of it being claimed that the blocking device/means is attached to the receiver. In Blanck, the cylinder lock is attached to the stock 5, which is not part of the receiver 3. Moreover, because the cylinder lock in Blanck is so large, it could not be attached to the receiver 3 (*i.e.*, there wouldn't be any support for the cylindrical lock sleeve). Accordingly, because Blanck does not disclose a locking (or blocking) device attached to a firearm receiver, as claimed in Claims 11-13, these claims are unanticipated by Blanck under 35 U.S.C. § 102(b), and are believed allowable.

Yet another difference between the present invention and the device in Blanck is that in the former, the blocking device/means can be positioned so that the action must be fully open for the blocking device to be engaged. In this position, with the action fully open: (i) the shell in the chamber, if any, is ejected; (ii) the next round from the magazine, if any, is in an intermediate position, held by the elevator and out of alignment with the chamber and firing pin; and (iii) the chamber is open and can be easily visually and physically inspected. This is discussed in the present application at Paragraphs 38 and 64, and is shown in FIGS. 2 and 12.

In Blanck, on the other hand, the cylinder lock 11 is positioned so that the action is not fully open when the cylinder lock engages the bolt 6. See, *e.g.*, Column 8, lines 40-45 ("By locating blind aperture 27 such that, when locked, bolt 6 is neither fully forward nor fully rearward..."); see also

FIG. 2. As such, with the bolt only slightly retracted and possibly in the way of the chamber and/or breech, it may be difficult to inspect the firearm chamber by either visual or physical means, both of which are typically recommended for firearm safety. Moreover, it is possible that a round, although not chambered, would still be held by a breech head or face portion of the bolt 6, and in alignment and possible interference with the chamber and firing pin/mechanism. Dissimilarly, according to the present invention, when the blocking device is employed to block the action in a fully open position, a round would be misaligned with both the chamber and firing mechanism, and, therefore, not in a position of possible interference with either the chamber or the firing mechanism. See, e.g., the positioning of elevator 50 in FIG. 2.

Claims 11-13 have been amended to indicate that the blocking means can only be actuated when the action is in a fully open position. Since Blanck does not disclose a device where a firearm's action is blocked in the fully open position, Blanck cannot anticipate Claims 11-13, which, therefore, are believed allowable.

*Not  
chambered in  
any  
place*

#### SECTIONS 9 & 10 OF OFFICE ACTION

Claim 14 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Blanck (as applied to Claim 13) in view of U.S. Pat. No. 5,867,928 to Plebani ("Plebani").

As the Examiner is aware, for a valid "obviousness" rejection under 35 U.S.C. § 103: (i) the cited patents/references, in combination, must show or suggest each and every element and limitation of the rejected claim; (ii) there must be some motivation to combine the cited references; and (iii) there must be a reasonable expectation of success in doing so. See M.P.E.P. § 2143. Here, in light of the amendments and arguments set forth above with respect to Claim 13 (showing that Blanck does not disclose each and every element of Claim 13), it is respectfully submitted that Blanck and Plebani necessarily fail to show each and every element of Claim 14, which depends from Claim 13. In other words, Claim 14 is allowable as depending from an allowable base claim, Claim 13.

#### SECTION 11 OF OFFICE ACTION

Claim 15 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Blanck (as applied to Claim 13) in view of U.S. Pat. No. 6,513,273 to da Silveira ("da Silveira").

Further to the arguments set forth immediately above regarding Section 10 of the Office Action, Claim 15 is believed allowable as depending from an allowable base claim, Claim 13, because the Blanck patent does not disclose all portions of Claim 13.

Moreover, regardless of the content of Blanck and da Silveira, the Applicants note that da Silveira does not qualify as prior art against the present application. More specifically, a patent qualifies as a reference under 35 U.S.C. § 103 if it qualifies as a reference under 35 U.S.C. § 102. Here, the da Silveira reference does not qualify as a 35 U.S.C. § 102 reference:

- 35 U.S.C. § 102(a) ("patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent"): the earliest date that da Silveira qualifies as a printed publication is its application publication date February 21, 2002. This is well after the latest priority date of the present application (and latest possible effective date-of-invention), June 13, 2001.
- 35 U.S.C. § 102(b) ("the invention was patented or described in a printed publication in this or a foreign country ... more than one year prior to the date of the application for patent in the United States"): the da Silveira application was first published well after one year before the present application was filed (February 21, 2002 vs. June 12, 2000).
- 35 U.S.C. §§ 102(c), 102(d), 102(f), 102(g): not applicable.
- 35 U.S.C. § 102(e): the latest possible effective date-of-invention in the present application is June 13, 2001 (the filing date of the third/last provisional patent application of which the present application claims benefit). Under revised 35 U.S.C. § 102(e), publications and patents qualify as prior art as of their effective U.S. filing dates. See M.P.E.P. § 706.02(a). The effective U.S. filing date does not include foreign, non-international/PCT priority. See M.P.E.P. § 2136.03 ("Foreign applications' filing dates that are claimed ... in applications, which have been published as U.S. or WIPO application publications or patented in the U.S., may not be used as 35 U.S.C. 102(e) dates for prior art purposes.")(emphasis in original). Here, da Silveira was filed in the U.S. on June 15, 2001, after the latest possible date-of-invention of the present application, June 13, 2001. da Silveira's earlier foreign priority date of August 15, 2000 does not qualify it as prior art under 35 U.S.C. § 102(e).

Because da Silveira does not qualify as prior art against the present application, it cannot be used in combination with Blanck under 35 U.S.C. § 103(a). Accordingly, Claim 15 is believed allowable.

In view of the amendments and arguments set forth herein, Claims 11-15 of the present application are deemed in condition for allowance and a prompt Notice of Allowance is respectfully requested at this time.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "John A. Kramer".

John A. Kramer  
Attorney for Applicants  
Registration No. 46302  
Customer No. 27804  
HOLLAND & BONZAGNI, P.C.  
171 Dwight Road, Suite 302  
Longmeadow, MA 01106-1700  
(413) 567-2076

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